

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 HALL, et al., 19-CV-893 (LDH)
5 Plaintiff, United States Courthouse
6 - versus - Brooklyn, New York
7 NASSAU COUNTY, et al., September 12, 2019
8 Defendants. 10:00 a.m.

9 -----x
10 TRANSCRIPT OF CIVIL CAUSE FOR PREMOTION CONFERENCE
11 BEFORE THE HONORABLE LASHANN DEARCY HALL
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES

14 Attorney for Plaintiff: KIRBY McINERNEY LLP
15 250 Park Avenue
16 New York, New York 10177
BY: ANDREW MCNEELA, ESQ.
DAVID BISHOP, ESQ.
SETH SHAPIRO, ESQ.

17 Attorney for Defendant: WOLF HALDENSTEIN ADLER
18 FREEMAN & HERZ LLP
19 270 Madison Avenue
20 New York, New York 10016
BY: REGINA M. CALCATERRA, ESQ.
DANIEL TEPPER, ESQ.
VERONICA BOSCO, ESQ.

21 Court Reporter: RIVKA TEICH CSR, RPR, RMR, FCRR
22 Phone: 718-613-2268
23 Email: RivkaTeich@gmail.com

24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

Rivka Teich CSR, RPR, RMR, FCRR
Official Court Reporter

PREMOTION CONFERENCE

1 THE COURT: Intent is not the question, it's impact.
2 Because I could care less, personally, whether or not the
3 intent was to discriminate against all of these poor brown and
4 black people. My question is, is the tax scheme from 2010 to
5 2017 reminiscent of the one that has a discriminatory impact
6 of these poor folks of color.

7 MS. CALCATERRA: It is reminiscent of that.
8 However, what the plaintiffs are alleging is that because
9 people -- two classifications that they use. They use a white
10 census track and the non-white census track. According to the
11 census, the definition of a white census track is when more
12 than 50 percent of the home owners or residences there are
13 white. And they use the term minority census track for the
14 census track where over 50 percent of the residents there are
15 minorities as well.

16 But what we have in Nassau County is many people who
17 don't file for tax assessments. It's not just those in
18 minority census tracks. We have plenty of folks who don't
19 file minority census track. We have white homeowners living
20 in a white census track as well that don't file.

21 The disparity between those who are able to get
22 refunds is basically based upon who is filing and who is not
23 filing.

24 What we're doing is the defendants are actually
25 seeking to file a motion to dismiss that is based upon two

PREMOTION CONFERENCE

1 went and get money back. That the county is actually
2 responsible for the entire amount of that refund.

3 It's not as if they have \$1.7 billion sitting around
4 that the plaintiffs believe that the district
5 disproportionately applied, because they asked for \$1.7
6 billion in damages That money that they are saying that could
7 be transferred over to the plaintiffs to pay for the recover
8 in this, is actually going to have a significant impact upon
9 the cash flow of Nassau County.

10 THE COURT: Any time a county has to pay damages,
11 it's going to have an impact. I guess I'm not following your
12 argument as to why it is that it makes the plaintiffs'
13 argument with respect to the relief sought in this case and
14 its implication with respect to a taxation scheme. Yes, there
15 will be a consequence. Any time a county has to come up with
16 money from its budget to pay damages in any case, it has an
17 impact on its budget. That's effectively what you told me, it
18 will impact the budget.

19 MS. CALCATERRA: Yes, but it goes back to what Hibbs
20 stated, that the TIA requires that federal courts don't have
21 jurisdiction. If there are going to be changes in a
22 Government-issued tax assessment, which is what this is here,
23 and that those cases should be heard in state court. And that
24 particular Hibbs case that --

25 THE COURT: I have to stop you. I want to make sure

PREMOTION CONFERENCE

1 MR. McNEELA: That is Thanksgiving.

2 THE COURT: Go to the following week.

3 COURTROOM DEPUTY: December.

4 THE COURT: An extra week from whatever that
5 Thursday is.

6 COURTROOM DEPUTY: December 5.

7 THE COURT: That makes more sense. Those are reply
8 dates. Fifteen pages on a reply.

9 Can I just tell you some pet peeves of mine. Don't
10 cite cases without a parenthetical. If I don't have an idea
11 why you cite a case, it will irritate me. I guess that's it.

12 You guys know what I care about. I think some of
13 the other issues that were raised are less problematic for me.
14 I'm going to be honest, I didn't think that your standing
15 argument was persuasive. Again, I'm here for it, I'll read
16 it. The comity issue and the subject matter jurisdiction
17 issue. There was another though, am I missing one?

18 MR. McNEELA: And standing.

19 THE COURT: That was it. Please don't spend forever
20 on standing.

21 MS. CALCATERRA: We did reserve an opportunity to
22 respond to the factual allegations as well.

23 THE COURT: Responding to the factual allegations
24 for the purposes of -- I'm going to accept them as true.
25 Except for the subject matter jurisdiction issue, on that I